

CHAPTER 271

GOVERNMENT - STATE

HOUSE BILL 21-1302

BY REPRESENTATIVE(S) Herod and Daugherty, Bacon, Bennett, Bird, Boesenecker, Cutter, Duran, Esgar, Exum, Froelich, Gonzales-Gutierrez, Gray, Hooton, Jackson, Kipp, Lontine, McCluskie, McCormick, McLachlan, Michaelson Jenet, Mullica, Ortiz, Ricks, Roberts, Sullivan, Titone, Valdez A., Valdez D., Weissman, Woodrow, Young, Garnett; also SENATOR(S) Winter, Bridges, Buckner, Danielson, Donovan, Fenberg, Fields, Ginal, Gonzales, Hansen, Jaquez Lewis, Kolker, Lee, Moreno, Pettersen, Story, Zenzinger, Garcia.

AN ACT

CONCERNING A GRANT PROGRAM FOR SMALL BUSINESSES AFFECTED BY ECONOMIC HARDSHIP CAUSED BY THE COVID-19 PANDEMIC, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, 24-48.5-126, **amend** (1), (2), (3)(a), (3)(b), (3)(c), (4), (5), and (6); and **add** (3)(e) and (3)(f) as follows:

24-48.5-126. Small business COVID-19 grant program - legislative declaration - definitions - reporting - repeal. (1) **Legislative declaration.** The general assembly hereby:

(a) Finds that:

(I) ~~In response to the COVID-19 pandemic that spread to many states, including Colorado, in February of 2020, Congress enacted~~ BEFORE THE EFFECTIVE DATE OF THIS SECTION, AS AMENDED, THIS SECTION PROVIDED FOR A SMALL BUSINESS GRANT PROGRAM FINANCED BY MONEY PROVIDED PURSUANT TO the FEDERAL "Coronavirus Aid, Relief, and Economic Security Act", Pub.L. 116-136, also referred to as the "CARES Act", ~~to provide emergency assistance to state, local, and tribal governments~~ WHICH MONEY HAD TO BE EXPENDED BY DECEMBER 30, 2020; AND

(II) ~~The CARES Act established the coronavirus relief fund (CRF) and appropriated one hundred fifty billion dollars to the CRF for distribution, in part, to the states to cover costs that~~ MANY SMALL BUSINESSES ADVERSELY AFFECTED BY

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

COVID-19 WERE UNABLE TO SECURE ANY FINANCING OR WERE ABLE TO SECURE ONLY INSUFFICIENT FINANCING PURSUANT TO THIS SECTION BEFORE THE DECEMBER 30, 2020, DEADLINE;

(A) Are necessary expenditures incurred due to the public health emergency with respect to the COVID-19 pandemic;

(B) Were not accounted for in the budget most recently approved as of March 27, 2020, for the state; and

(C) Were incurred during the period that begins on March 1, 2020, and ends on December 30, 2020;

~~(III) Approximately one billion six hundred seventy-four million dollars was transferred from the CRF to Colorado's state government and, in his executive order D 2020-070, dated May 18, 2020, the governor transferred seventy million dollars of that money to the general fund for disbursement by the general assembly;~~

~~(IV) The United States department of the treasury has issued guidance on states' use of money allocated from the CRF, including the "Coronavirus Relief Fund Frequently Asked Questions" document issued on May 4, 2020, and updated on May 28, 2020, in which the department indicated that "eligible expenditures may include expenditures related to the provision of grants to small businesses to reimburse the costs of business interruption caused by required closures. . . . A program that is aimed at assisting small businesses with the costs of business interruption caused by required closures should be tailored to assist those businesses in need of such assistance. The amount of a grant to a small business to reimburse the costs of business interruption caused by required closures would also be an eligible expenditure under section 601(d) of the Social Security Act, as outlined in the Guidance";~~

(b) Determines that to help reduce the spread of COVID-19 and in compliance with stay-at-home and safer-at-home executive and public health orders, many businesses have shut down for extended periods and residents throughout the state have remained in their homes and experienced a significant decline in their household incomes, all of which has resulted in economic distress for many small businesses; and

(c) Declares that:

(I) A grant program that provides grants to small businesses that face economic hardship caused by the COVID-19 pandemic ~~which assistance was not accounted for in the state's budget most recently approved as of March 27, 2020, is a necessary expenditure to address the public health emergency with respect to the COVID-19 pandemic~~; CONTINUES TO BE A PRESSING PRIORITY THAT MERITS THE ALLOCATION OF GENERAL FUND REVENUES; AND

(II) IN ORDER TO ENSURE A MORE EQUITABLE ECONOMIC RECOVERY, IT IS NECESSARY TO SIMPLIFY THE DOCUMENTATION AND VERIFICATION REQUIRED OF BUSINESSES TO DEMONSTRATE NEED, PARTICULARLY FOR SMALLER AWARDS AND SMALL BUSINESSES.

(2) **Definitions.** As used in this section, unless the context otherwise requires:

(a) "Authority" means the Colorado housing and finance authority created in part 7 of article 4 of title 29.

~~(b) "CARES Act" means the federal "Coronavirus Aid, Relief, and Economic Security Act", Pub.L. 116-136, as amended.~~

~~(c)~~ (b) "Commission" means the Colorado economic development commission created in section 24-46-102 (2).

~~(d)~~ (c) "COVID-19" means the coronavirus disease caused by the severe acute respiratory syndrome coronavirus 2, also known as SARS-CoV-2.

(d) "ECONOMICALLY DISTRESSED AREA" INCLUDES A STATE OPPORTUNITY ZONE, AN ENTERPRISE ZONE, OR A HISTORICALLY UNDERUTILIZED BUSINESS ZONE.

(e) "ENTERPRISE ZONE" MEANS AN AREA DESIGNATED AS AN ENTERPRISE ZONE PURSUANT TO SECTION 39-30-103.

~~(e)~~ (f) "Grantor" means a nonprofit or community-based lender, approved by the authority, that underwrites and distributes a grant to a small business pursuant to the program.

(g) "HISTORICALLY UNDERUTILIZED BUSINESS ZONE" MEANS AN AREA DESIGNATED BY THE UNITED STATES SMALL BUSINESS ADMINISTRATION AS A HISTORICALLY UNDERUTILIZED BUSINESS ZONE UNDER THE UNITED STATES SMALL BUSINESS ADMINISTRATION'S HUBZONE PROGRAM.

~~(f)~~ (h) "Office" means the Colorado office of economic development created in section 24-48.5-101.

~~(g)~~ (i) "Program" means the small business COVID-19 grant program established in subsection (3) of this section.

~~(h)~~ (j) (I) "Rural area" means:

~~(H)~~ (A) A county with a population of less than fifty thousand people; ~~according to the most recently available population statistics of the United States bureau of the census;~~

~~(H)~~ (B) A municipality with a population of less than fifty thousand people ~~according to the most recently available population statistics of the United States bureau of the census;~~ that is located ten miles or more from a municipality with a population of more than fifty thousand people; or

~~(H)~~ (C) The unincorporated part of a county located ten miles or more from a municipality with a population of more than fifty thousand people. ~~according to the most recently available population statistics of the United States bureau of the census.~~

(II) FOR PURPOSES OF THIS SUBSECTION (2)(j), POPULATION IS DETERMINED ACCORDING TO THE MOST RECENTLY AVAILABLE POPULATION STATISTICS OF THE UNITED STATES BUREAU OF THE CENSUS.

(†) (k) "Small business" means a person that:

(I) Is a for-profit sole proprietorship or for-profit domestic entity, as that term is defined in section 7-90-102 (13), or a nonprofit corporation or other organization type specified by the office and the authority; ~~and as permitted under section 601 (d) of the federal "Social Security Act", as amended, as added by section 5001 of the CARES Act;~~

(II) Has fewer than twenty-five employees, measured as full-time equivalents; except that an employer that meets the criteria specified in 29 U.S.C. sec. 213 (a)(3) may use its off-season employee count for the purposes of this subsection ~~(2)(i)(II)~~ (2)(k)(II); and

(III) Has been affected by economic hardship caused by the COVID-19 pandemic, including by interruption caused by required business closures, voluntary closures to promote social distancing measures, or decreased customer demand as a result of the COVID-19 public health emergency.

(I) "STATE OPPORTUNITY ZONE" MEANS A CENSUS TRACT DESIGNATED BY THE OFFICE AS AN OPPORTUNITY ZONE.

(3) **Grant program.** (a) The office shall establish and administer the financing of a small business COVID-19 grant program to assist small businesses facing economic hardship caused by the COVID-19 pandemic. ~~as permitted under the CARES Act.~~ The commission shall contract with the authority to operate the program. The contract must require compliance with this section and the criteria established pursuant to this section by the authority and each grantor that is authorized to award grants. Under the contract, the office may advance money to the authority in preparation for issuing grants and administering the ~~grant~~ program. The authority shall leverage its relationships with grantors to distribute the grants to eligible small businesses.

(b) (I) To receive a grant pursuant to the program, a small business must apply to a grantor in a manner determined by the authority. The application must specify the proposed use of the grant, which must relate to responding to or recovering from the impacts of the COVID-19 pandemic, and require reporting by the small business regarding the actual use of the grant award.

(II) THE FACT THAT A SMALL BUSINESS RECEIVED AN AWARD FROM THE PROGRAM BEFORE THE EFFECTIVE DATE OF THIS SECTION, AS AMENDED, DOES NOT DISQUALIFY THE SMALL BUSINESS FROM RECEIVING AN AWARD FROM THE PROGRAM ON OR AFTER THE EFFECTIVE DATE OF THIS SECTION, AS AMENDED. A SMALL BUSINESS MUST DEMONSTRATE THE SMALL BUSINESS'S FINANCIAL LOSSES RELATED TO THE COVID-19 PANDEMIC BY PROVIDING EITHER A SELF-CERTIFICATION OR FINANCIAL DOCUMENTATION THAT THE SMALL BUSINESS'S FINANCIAL LOSSES ARE EQUAL TO OR GREATER THAN THE AMOUNT REQUESTED, UP TO THE MAXIMUM GRANT AMOUNT. A SMALL BUSINESS THAT SELF-CERTIFIES ITS LOSS AND DOES NOT PROVIDE FINANCIAL

DOCUMENTATION MAY NOT RECEIVE A GRANT AMOUNT ON OR AFTER THE EFFECTIVE DATE OF THIS SECTION, AS AMENDED, GREATER THAN FIVE THOUSAND DOLLARS.

(III) A small business shall not use a grant for lobbying, as that term is defined in section 24-6-301 (3.5). Each individual grant award must not exceed fifteen thousand dollars AND THE TOTAL AMOUNT OF MONEY AWARDED TO ANY INDIVIDUAL SMALL BUSINESS MUST NOT EXCEED FIFTEEN THOUSAND DOLLARS. RECEIPT OF FINANCIAL ASSISTANCE OTHER THAN FROM THE PROGRAM DOES NOT AFFECT APPLICANTS' ELIGIBILITY FOR ASSISTANCE, OR THE AMOUNT OF ASSISTANCE, AVAILABLE FROM THE PROGRAM.

(c) The office shall establish and publicize criteria that a grantor shall use in awarding grants. The criteria must specify when a grant is necessary to respond to the COVID-19 pandemic. ~~and therefore may be awarded in the absence of a stay-at-home order.~~

(e) IN ADDITION TO THE PREFERENCES SPECIFIED IN SUBSECTION (3)(d) OF THIS SECTION, THE GRANTOR SHALL GIVE PREFERENCE TO A SMALL BUSINESS THAT:

(I) DID NOT QUALIFY FOR OR RECEIVE, OR RECEIVED AN INSUFFICIENT, LOAN, GRANT, OR OTHER FINANCIAL ASSISTANCE PURSUANT TO THE FEDERAL "PAYCHECK PROTECTION PROGRAM AND HEALTH CARE ENHANCEMENT ACT", PUB.L. 116-139, AS AMENDED, OR PURSUANT TO OTHER STATE OR FEDERAL COVID-19 PANDEMIC-RELATED ASSISTANCE, INCLUDING THIS SECTION AS IT EXISTED BEFORE THE EFFECTIVE DATE OF THIS SECTION, AS AMENDED;

(II) IS A FOR-PROFIT SOLE PROPRIETORSHIP; OR

(III) IS LOCATED IN AN ECONOMICALLY DISTRESSED AREA.

(f) IF MONEY BECOMES AVAILABLE TO THE PROGRAM AFTER THE EFFECTIVE DATE OF THIS SECTION, AS AMENDED, IN ADDITION TO THE PREFERENCES SPECIFIED IN SUBSECTIONS (3)(d)(I) AND (3)(e) OF THIS SECTION, THE GRANTOR SHALL GIVE A PREFERENCE TO A SMALL BUSINESS:

(I) THAT IS OBLIGATED TO MAKE LEASE OR MORTGAGE LOAN PAYMENTS FOR THE BUSINESS'S PREMISES; OR

(II) WHERE THE BUSINESS OWNER RESIDES AT THE SAME ADDRESS AS THE BUSINESS PREMISES.

(4) **Financing.** (a) The small business COVID-19 grant program is financed by ~~twenty~~ FIFTEEN million dollars appropriated from ~~the care subfund in~~ the general fund. The office may expend the money specified in this subsection (4) only for:

(I) Making grants through the authority to small businesses pursuant to the program;

(II) The office's and the authority's costs of administering the program, INCLUDING FOR COMMUNICATIONS, TECHNICAL ASSISTANCE FOR GRANT APPLICANTS, AND OUTREACH EFFORTS TO UNDERSERVED COMMUNITIES, which expenditures must

not exceed ONE AND sixth-tenths of one percent of the money specified in this subsection (4); and

(III) An allowance of up to ~~three~~ FOUR percent of each individual grant PLUS UP TO TWENTY-FIVE DOLLARS PER GRANT to be used by the grantor for its costs in distributing the grant.

~~(b) (I) Until October 1, 2020, five million dollars of the money specified in subsection (4)(a) of this section is reserved for small businesses within the tourism sector, including the following sectors:~~

- ~~(A) The hotel, motel, and lodging industry;~~
- ~~(B) The food, beverage, and restaurant industry;~~
- ~~(C) The ski industry;~~
- ~~(D) Private travel attractions and casinos;~~
- ~~(E) Other outdoor recreation industries;~~
- ~~(F) Tourism-related transportation industries;~~
- ~~(G) The tourism-related retail industry;~~
- ~~(H) The destination marketing industry; and~~
- ~~(I) Cultural event and facility groups.~~

~~(H) On and after October 1, 2020, all of the remaining money specified in subsection (4)(a) of this section is available for any qualifying small business.~~

~~(e) (b) The office must expend all money specified in this subsection (4) by December 30, 2020~~ JULY 1, 2022.

(5) **Reporting.** ON OR BEFORE NOVEMBER 1, 2022, the office shall submit the following reports to ~~the committees of the general assembly with jurisdiction over business affairs~~ THE HOUSE OF REPRESENTATIVES BUSINESS AFFAIRS AND LABOR COMMITTEE AND THE SENATE BUSINESS, LABOR, AND TECHNOLOGY COMMITTEE, OR THEIR SUCCESSOR COMMITTEES:

(a) ~~By July 1, 2020, regarding the criteria that the office has established for the award of grants; and~~ THE NUMBER OF BUSINESSES APPLYING TO THE PROGRAM, INCLUDING A BREAKDOWN OF THE NUMBER OF APPLICANTS THAT ARE OWNED BY WOMEN, MINORITIES, OR VETERANS;

(b) ~~By April 1, 2021, regarding the number of grants awarded, the amount of each grant, the recipient of each grant, and how the recipient spent the grant.~~ THE PERCENTAGE OF APPLICANTS FUNDED AND THE AVERAGE RATE OF FUNDING UNDER THE PROGRAM, INCLUDING A BREAKDOWN OF THE PERCENTAGE OF APPLICANTS FUNDED AND THE AVERAGE RATE OF FUNDING FOR SMALL BUSINESSES THAT ARE

OWNED BY WOMEN, MINORITIES, OR VETERANS;

(c) THE GEOGRAPHIC DISTRIBUTION OF THE APPLICANTS FOR AND RECIPIENTS OF LOANS AND GRANTS; AND

(d) INFORMATION ON THE TYPE AND SIZE OF SMALL BUSINESSES THAT APPLIED FOR AND RECEIVED FUNDING UNDER THE PROGRAM.

(6) **Repeal.** This section is repealed, effective September 1, ~~2022~~ 2024.

SECTION 2. In Colorado Revised Statutes, 24-46-104, **amend** (1)(n)(II)(B) as follows:

24-46-104. Powers and duties of commission - repeal. (1) The commission has the following powers and duties:

(n) To contract with the Colorado housing and finance authority, created in part 7 of article 4 of title 29, for the operation of:

(II) (B) This subsection (1)(n)(II) is repealed, effective September 1, ~~2022~~ 2024.

SECTION 3. In Colorado Revised Statutes, 29-4-708, **amend** (1)(bb)(II) as follows:

29-4-708. General powers of the authority - repeal. (1) In addition to any other powers granted to the authority in this part 7, the authority has the following powers:

(bb) (II) This subsection (1)(bb) is repealed, effective September 1, ~~2022~~ 2024.

SECTION 4. Appropriation. For the 2020-21 state fiscal year, \$15,000,000 is appropriated to the office of the governor for use by the economic development programs. This appropriation is from the general fund. To implement this act, the office may use this appropriation for the administration of the small business COVID-19 grant program as specified in section 24-48.5-126 (3), C.R.S. Any money appropriated in this section but not awarded prior to July 1, 2021, is further appropriated to the office for the 2021-22 state fiscal year for the same purpose.

SECTION 5. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety.

Approved: June 21, 2021